

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 25662 of 2002

19.12.2007

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Between:

Tahnath Mohiuddin

... Petitioner

AND

The Land Acquisition Officer-cum-
Revenue Divisional Officer,
Adilabad.

... Respondent

Counsel for the petitioner : Sri S. Chandra Sekhar

Counsel for the respondents : Assistant Government Pleader for
Land Acquisition.

ORDER:

This writ petition is filed for a writ of mandamus to direct the respondent to consider application dated 28.02.1987 of the petitioner filed under Section 28-A of the Land Acquisition Act, 1894 (for short, 'the Act') for re-determination of the market value of the acquired land of late Mohmoodunnisa Begum, mother of the petitioner to an extent of Ac.10.13 guntas situated in Survey No. 8 of Mangurla Village, Jainath Mandal, Adilabad District or refer the dispute to the competent civil Court under Section 28-A(3) of the Act based on an application filed by the petitioner dated 20.02.1998 for re-determination of compensation.

The petitioner claimed that his family owned an extent of Ac.20.26 guntas situated in Survey No.8 of Mangurla Village, Jainath Mandal, Adilabad District. In the year 1977, the said land was

acquired for the purpose of construction of Sathanala project. The respondent passed award on 25.04.1979. In a dispute referred to civil Court under Sections 30 and 31 of the Act between the petitioner and his mother on the one hand and the third parties on the other, the District Court, Adilabad, vide its judgment dated 26.10.1983, declared that the petitioner and his mother are owners of Ac.10.13 guntas each which was acquired by the respondent. Certain persons whose lands were also acquired under the same notification got the issue of fixation of market value for their lands referred to the civil Court under Section 18 of the Act and the same were registered as O.P.No. 584 of 1985 and batch. The civil Court disposed of the said reference by its order dated 29.08.1986, wherein the market value of the land fixed by the respondent was re-fixed at Rs.4,500/- per acre.

The petitioner claimed that he and his mother filed separate applications for re-determination of the market value under Section 28-A of the Act before the respondent and that his mother died in the year 1992. Thereafter, the petitioner filed Writ Petition No. 17324 of 1996 seeking a direction to the respondent to re-determine the compensation in respect of Ac.20.20 guntas of land (the petitioner's share and the share of his deceased mother). The said writ petition was evidently disposed of on 07.12.1996 directing the respondent to consider the applications filed for re-determination of the market value under Section 28-A of the Act. On 02.02.1998, the respondent allowed the application of the petitioner to the extent of Ac.10.13 guntas referable to his share and did not pass any order in respect of the share of the petitioner's deceased mother. Aggrieved by this inaction, the present writ petition has been filed.

Sri Ashok Kumar Naik, Revenue Divisional Officer, Adilabad filed counter-affidavit, in which it is averred that the mother of the petitioner-

Smt. Mohmoodunnisa Begum submitted application on 11.07.1986 i.e. before disposal of O.P. No. 584 of 1985 and batch. It is further stated that the market value in respect of Ac.10.13 guntas belonging to the petitioner has already been re-determined and that the re-determination in respect of the share of the petitioner's mother was not made as she has not enclosed the copy of judgment by which the Additional District Judge, Adilabad enhanced the market value.

Heard Sri S. Chandra Sekhar, learned counsel for the petitioner and learned Assistant Government Pleader for Land Acquisition.

It is required to be observed that the mother of the petitioner filed application during her life time and though more than 21 years had elapsed, so far the respondent has not passed any order rejecting the request to re-determine the compensation. The stand taken in the counter-affidavit reveals that non-determination of compensation under Section 28-A of the Act in respect of the share of the petitioner's mother was on account of the fact that even before the disposal of O.P., in which compensation was enhanced, the petitioner's mother made an application and that her application was not accompanied by the judgment of the civil Court. The facts which were already discussed above reveal that the said O.P. was disposed of on 29.08.1996. While the petitioner claims that her mother made application on 28.02.1987 and he filed a copy of receipt said to have been issued by the respondent evidencing such filing on 28.02.1987, the respondent has taken the stand that she filed the application on 11.07.1986, a few days before the disposal of O.P. However, for not re-determining the compensation, the respondent has come out with the reason that the application was not accompanied by the judgment of the civil Court. Undisputedly, the petitioner had filed a copy of the judgment in respect of his share of the land. Whether the application

was filed a few days before the judgment of the civil Court or thereafter, I am of the view that by itself may not make any substantial difference because there was no dispute with respect to the facts namely; that the ownership of the mother of the petitioner in respect of Ac.10.13 guntas was not in dispute and the fact that the said extent is covered by the same notification in respect of which the civil Court re-fixed the compensation under Section 18. The mere fact that the application was not accompanied by a certified copy of judgment, cannot be a ground to reject her application in view of the fact that in respect of the share of the petitioner (the applicant's son), the judgment was produced and the same covers the case of the applicant as well.

I am, therefore, of the view that the respondent was not justified in not passing an order of re-determination of compensation in respect of the share of the mother of the petitioner.

For the above-mentioned reasons, the writ petition is disposed of. The respondent is directed to consider the application filed by Smt. Mohmoodunnisa Begum, the mother of the petitioner for re-determination of compensation under Section 28-A of the Act in the light of the observations made above within a period of four weeks from the date of receipt of a copy of this order.

As a sequel to disposal of the writ petition, W.P.M.P.No. 32413 of 2002 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

19.12.2007

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